

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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JOHN DAVID PAMPLIN,

Petitioner,

v.

PERRY RUSSEL, *et al.*,

Respondents.

Case No. 3:20-cv-00658-MMD-CLB

ORDER

Petitioner John Pamplin has filed a *pro se* 28 U.S.C. § 2254 petition for writ of *habeas corpus*. (ECF No. 1-1 (“Petition”).) The Court grants Petitioner’s application to proceed *in forma pauperis* (ECF No. 1). The Court has reviewed the Petition, and it is dismissed as successive.

Petitioner states on the face of the Petition that in Case No. 3:08-cv-00007-RCJ-VPC, which Petitioner initiated in 2008, he sought federal *habeas corpus* relief from his same state court conviction. That federal petition was dismissed on January 14, 2011, and this Court denied a certificate of appealability. *See Pamplin v. Benedetti, et al.*, Case No. 3:08-cv-00007-RCJ-VPC, ECF Nos. 34, 35 (D. Nev. Jan. 1, 2011). Petitioner appealed, and the Ninth Circuit Court of Appeals denied Petitioner’s request for a certificate of appealability on December 20, 2011. (*Id.* at ECF No. 44.) Petitioner thereafter filed a petition for a writ of *certiorari* with the United States Supreme Court, and that petition was denied on May 14, 2012. (*Id.* at ECF Nos. 43, 45.)

On June 11, 2018, Petitioner filed a motion for “request for rehearing on original and amended petitions.” (*Id.* at ECF No. 46.) That motion was denied on June 18, 2018. (*Id.* at ECF No. 48.) Petitioner appealed the June 18, 2018 denial order, and the Ninth Circuit denied his request for a certificate of appealability on November 16, 2018. (*Id.* at ECF No. 52.)

1           Petitioner must obtain permission from the Ninth Circuit under 28 U.S.C. § 2244(b)  
2 to file a second or successive petition for writ of *habeas corpus*. Without such permission,  
3 this Court is without jurisdiction to entertain a challenge to Petitioner's state court  
4 conviction or sentence. *See Burton v. Stewart*, 549 U.S. 147, 153 (2007). Consequently,  
5 this action is dismissed.

6           It is therefore ordered that Petitioner's motion to proceed *in forma pauperis* (ECF  
7 No. 1) is granted.

8           The Clerk of Court is directed to file the Petition (ECF No. 1-1).

9           It is further ordered that this proceeding is dismissed for lack of jurisdiction.

10          It is further ordered that a certificate of appealability is denied.

11          The Clerk of Court is directed to enter judgment accordingly and close this case.

12          DATED THIS 19<sup>th</sup> Day of January 2021.

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16 MIRANDA M. DU  
17 CHIEF UNITED STATES DISTRICT JUDGE  
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